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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/08

SPONSOR Martinez, K LAST UPDATED \_\_\_\_\_ HB 100/aSJC

SHORT TITLE Ignition Interlock Tampering Penalties SB \_\_\_\_\_

ANALYST C. Sanchez/Cox

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Public Defender (PDD)

### SUMMARY

#### Synopsis of SJC Amendment

Senate Judiciary Committee Amendment to House Bill 100 merely adds' clean-up language, and does not affect the intent of this Bill

#### Synopsis of Original Bill

House Bill 100 amends NMSA 1978, Section 66-5-503 (Ignition Interlock License) to add a new subsection that provides that "tampering or interfering with the proper and intended operation of an ignition interlock device may subject the applicant to penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act."

The bill further amends NMSA 1978, Section 66-5-504 (Penalties) to include language clarifying that a person who is issued an ignition interlock license and who nevertheless operates a vehicle that is not equipped with an interlock device "is driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act" and continues the present penalties pursuant to Section 66-5-39.

The bill further amends NMSA 1978, Section 66-5-504 (Penalties) to include language providing that a “person who is issued an ignition interlock license and who knowingly and deliberately tampers or interferes or causes another to tamper or interfere with the proper and intended operation of an ignition interlock device shall be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act as provided in Section 66-5-39”.

### **FISCAL IMPLICATIONS**

Any additional litigation could be absorbed in the ordinary course of business.

### **SIGNIFICANT ISSUES**

Enactment of this bill would clarify that a person who violates the Ignition Interlock law is guilty of driving with a revoked license. It would provide that a person who knowingly tampers with a mandated interlock is likewise guilty.

Public defenders, judges, and district attorneys have some concern about the proposed legislation’s lack of specificity vis-à-vis whether having another person blow into the interlock device constitutes deliberate tampering with the device in violation of the proposed legislation. A concomitant concern is to note that the second person would be guilty of a crime under the proposed legislation: although the proposed legislation requires a person to be “issued an ignition interlock license” before the provisions of the new law would apply, NMSA 1978, Section 66-8-120 (Parties to a Crime) would make an accomplice likewise guilty.

### **ADMINISTRATIVE IMPLICATIONS**

This bill could increase workloads for public defenders, district attorneys, judges and related staff.

### **TECHNICAL ISSUES**

In order to avoid otherwise inevitable, time-consuming and costly litigation if this bill should pass, public defenders and district judges suggest that language be inserted clarifying whether having a second person blow into the interlock device constitutes deliberate tampering with the device in violation of the proposed legislation

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

### **POSSIBLE QUESTIONS**

Does having a second person blow into the interlock device violate the Ignition Interlock law as amended by the proposed legislation?

CS/PC:mt